UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,438	03/03/2004	Jeffery Scott Mootz	1122.03001	2437

24254 7590 09/01/2005

ROGER A JACKSON, ESQ
800 PENNSYLVANIA
SUITE 1504
DENVER, CO 80203-3185

EXAMINER	
SUTHAR, RISHI S	
ART UNIT	**PAPER NUMBER**
2851	

DATE MAILED: 09/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/708,438	MOOTZ ET AL.	
	Examiner	Art Unit	
	Rishi Suthar	2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *20040516, 20040520*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-19 teach a roll member, being operational "to pivot parallel to said pivotal roll axis." It is unclear how a member can pivot parallel to an axis, since members are normally pivoted about an axis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 7-10, 17 and 19 as understood are rejected under 35 U.S.C. 102(b) as being unpatentable by Tyler (U.S. Patent No. 3,467,350).

Regarding claim 1, Tyler teaches in Fig. 1: (a) a frame (20, 50) having a longitudinal axis (26), where said frame includes a first end (at 48) adapted to attached to a support structure (22) and a second end that forms a pivotal connection (at pin 78) having a pivotal roll axis (24); (b) a roll member (16) adapted to attach to a camera (30),

said roll member is pivotally attached to said pivotal connection by a pivotal shaft (pin 78), rotating about said pivotal roll axis (Col 4, lines 64-69), said roll member also includes an extension arm (94) having a longitudinal axis (96), said extension arm including a proximal end portion (at 98) that is adjacent to said roll member, said extension arm being positioned approximately perpendicular to said pivotal roll axis (extension arm can be rotated about pin 98, therefore it has the ability to positioned perpendicular to said roll member), said extension arm also including a distal end portion that is adjacent to a counter balance weight (36), said roll member is operational to help maintain the camera positional orientation level in relation to arbitrary pivotal roll movement of said frame, resulting from a selectivity positioned center of mass of said roll member, camera, extension arm, and counterbalance weight combined (Col.6, lines 54-65), wherein said frame longitudinal axis and said extension arm form a parallel to angular relationship, as seen in Fig. 1. It inherently exists that said center of mass is positioned between said pivotal roll axis and said frame first end due to the structure of Tyler's invention a seen in Fig. 1 and Fig. 3.

Regarding claim 2, Tyler teaches in Fig. 1 a dampener (50, 60, 62, 64, 66) that is positioned adjacent to both said frame (at 52 and 54) and roll member (at pin 78), where said dampener is operational to help control a relative arbitrary pivotal roll movement of said frame to said roll member.

Regarding claim 7, Tyler teaches that said extension arm proximal end portion further comprised a fixably adjustable element (94, 98) that allows said extension arm to selectively deviate from being approximately perpendicular to said pivotal roll axis,

wherein said fixably adjustable element is operational to accommodate a camera with an offset center of gravity by altering the position of said center of mass (Col. 6, lines 54-65).

Regarding claim 8, Tyler teaches that said fixably adjustable includes an aperture (at pin 98) in said roll member that rotationally receives and axially retains said extension arm proximal end portion allowing a selected rotational position of said extension arm to be locked in place with a roll member lockable element (98), with said extension arm proximal end portion including a fixed angle portion as seen in Fig. 1-3.

Regarding claim 9, Tyler teaches that said counter balance weight is removably engagable from said extension arm distal end portion by turning the weight (36) about the threads on extension arm (94), being operational to selectively change the amount of counterbalance weight, being operational to alter or maintain a selected position of said center of mass, thus accommodating different weight cameras (Col. 5, lines 24-27).

Regarding claim 10, Tyler teaches that said counter balance weight is movably engagable along said extension arm by turning the weight around the threads located on said extension arm, being operational to selectively change the distance of said counterbalance weight from said roll member, being operational to alter or maintain a selected position of center of mass, thus accommodating different weight cameras (Col. 6, lines 54-65).

Regarding claim 17, Tyler teaches a method of acquiring camera images comprising the steps of: (a) providing a self leveling camera support apparatus as shown in Fig. 1 that includes a frame (20, 50) having a longitudinal axis (26), where said

frame includes a first end (at 48) adapted to attached to a support structure (22) and a second end that forms a pivotal connection (at pin 78) having a pivotal roll axis (24), a roll member (16) adapted to attach to a camera (30), said roll member is pivotally attached to said pivotal connection by a pivotal shaft (pin 78), rotating about said pivotal roll axis (Col 4, lines 64-69), said roll member also includes an extension arm (94) having a longitudinal axis (96), said extension arm including a proximal end portion (at 98) that is adjacent to said roll member, said extension arm being positioned approximately perpendicular to said pivotal roll axis (extension arm can be rotated about pin 98, therefore it has the ability to positioned perpendicular to said roll member), said extension arm also including a distal end portion that is adjacent to a counter balance weight (36), said roll member is operational to help maintain the camera positional orientation level in relation to arbitrary pivotal roll movement of said frame, resulting from a selectivity positioned center of mass of said roll member, camera, extension arm, and counterbalance weight combined (Col.6, lines 54-65), wherein said frame longitudinal axis and said extension arm form a parallel to angular relationship, as seen in Fig. 1. It inherently exists that said center of mass is positioned between said pivotal roll axis and said frame first end due to the structure of Tyler's invention a seen in Fig. 1 and Fig. 3. Tyler also teaches that said extension arm proximal end portion further comprised a fixably adjustable element that allows said extension arm to selectively deviate from being approximately perpendicular to said pivotal roll axis, wherein said fixably adjustable element (94, 98) is operational to accommodate a camera with an offset center of gravity by altering the position of said center of mass (Col. 6, lines 54-

65), further included is an adjustable dampener (50, 60, 62, 64, 66) that is positioned adjacent to both said frame (at 52 and 54) and roll member (at pin 78), where said dampener is operational to help control a relative arbitrary pivotal roll movement of said frame to said roll member; (b) attaching said frame first end to a support structure (22); (c) attaching said camera (30) to said roll member (16); (d) positioning a selected amount of said counterbalance weight (36) to accommodate a camera weight (Col. 6, lines 54-59); and (e) acquiring images of an event using a camera. Tyler does not teach the apparatus to be used for acquiring images at an aquatic event, but it would be obvious to use the apparatus at an aquatic event since this is only a change in the environment in which the camera is being used.

Regarding claim 19, Tyler teaches a fixably adjustable element (94, 98) that allows said extension arm to selectively deviate from being approximately perpendicular to said pivotal roll axis, wherein said fixably adjustable element is operational to accommodate a camera with an offset center of gravity by altering the position of said center of mass (Col. 6, lines 54-65).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 6 as understood is rejected under 35 U.S.C. 103(a) as being unpatentable over Tyler (U.S. Patent No. 3,467,350) in view of Macchiarella (U.S. Patent No. 5,190,256). Tyler teaches the invention of claim 1, except for the frame first end that includes an arcuate section configured to substantially conform to a portion of a marine vessel rail outside circumference, a rail clamp pivotal element, and a rail clamp fastener. Macchiarella teaches a camera support apparatus wherein the first end of a frame (22) is adapted to attach to a support structure as shown in Fig. 8 that includes an arcuate section configured to substantially conform to a portion of a marine vessel rail outside circumference, a rail clamp pivotal element (20) that is pivotally attached to said frame first end (at 60), and a rail clamp fastener (70), wherein said frame first end is operational to attach to a marine vessel rail. It would be obvious to one of ordinary skill in the art at the time of applicant's invention to modify the invention of Tyler to include a rail clamp structure to take stabilized images of a water skier while on a boat as taught by Macchiarella (Col. 1, lines 41-43).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McGuire et al. (U.S. Patent No. 6,293,449) discloses a camera support for use on a handle bar of a vehicle. Lisowski (U.S. Patent No. 4,338,875) discloses a clamp used for attaching electronic equipment to the railing of a boat.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RS

Michael J. Tokar

Michael Tokar
Supervisory Patent Examiner
Technology Center 2800